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FILED

JUN 30 2004

PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH

**STATE OF WASHINGTON
SNOHOMISH COUNTY SUPERIOR COURT**

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

HOUSING AUTHORITY OF THE
CITY OF EVERETT,

Defendant.

NO. **04 2 10919 0**

JOINT MOTION FOR ENTRY OF
CONSENT DECREE

I. INTRODUCTION

Plaintiff, State of Washington, Department of Ecology ("Ecology"), and Defendant, the Housing Authority of the City of Everett ("Everett Housing Authority" or "EHA") bring this motion seeking entry of the attached Consent Decree ("Decree"). This motion is based upon the pleadings filed in this matter, including the Declarations of Tim Nord and Kristie E. Carevich, attached.

II. RELIEF REQUESTED

The Parties request that the Court approve and enter the attached Consent Decree, which requires certain remedial actions to occur at 15 residential properties collectively referred to as the "Asarco Houses." The Asarco Houses comprise one portion of the upland area of the Everett Smelter Site, which is generally located in northeast Everett, Washington. The Parties



1 also request that the Court retain jurisdiction over this action until the work required by the
2 Consent Decree is completed and the Parties request a dismissal of this action.

3 III. FACTS

4 The Decree between EHA and Ecology resolves in advance the potential liability EHA
5 would otherwise acquire upon purchase of 15 residential properties, collectively referred to as
6 the "Asarco Houses," that comprise a portion of the Everett Smelter Site, for the known and
7 suspected contamination at the Everett Smelter Site ("Site") arising from a release or threatened
8 release of hazardous substances.

9 The Decree will result in substantial new resources to facilitate cleanup, will promote
10 the public interest by expediting cleanup activities at the Site consistent with RCW
11 70.105D.030(2)(e) and Chapter 173-340 WAC, and will facilitate the redevelopment and reuse
12 of a portion of the Site for single family or other residential and/or related uses without
13 contributing to the existing release or threatened release, interfering with remedial actions that
14 may be needed at the Site, or increasing health risks to persons at or in the vicinity of the Site.
15 See Nord. Decl., ¶ 7; Carevich Decl., ¶ 7.

16 II. AUTHORITY

17 Authority is conferred upon the Washington State Attorney General by
18 RCW 70.105D.040(5)(a) to agree to a settlement with any person not currently liable for
19 remedial action at a facility, who intends to purchase, redevelop or reuse a site if, after public
20 notice and any required hearing, Ecology finds the proposed settlement would lead to a more
21 expeditious cleanup of hazardous substances in compliance with cleanup standards under
22 RCW 70.105D.030(2)(e). In addition, Ecology must also find that the proposed redevelopment
23 or reuse is not likely to contribute to the existing releases or threatened releases or interfere with
24 remedial actions that may be needed on the Site or increase health risks to persons at or in the
25 vicinity of the Site. Lastly, the Attorney General must find that the settlement will yield
26 substantial new resources to facilitate the cleanup and expedite remedial action consistent with

1 the rules adopted under RCW 70.105D. Under RCW 70.105D.040(4)(b), such a settlement
2 must be entered as a Consent Decree issued by a court of competent jurisdiction.

3 Ecology believes it is appropriate for the Court to exercise its judicial discretion and
4 approve the attached Decree.

5 **III. CONCLUSION**

6 The parties request that the Court approve and enter the attached Decree in full
7 resolution of the matters involved in this action.

8 DATED this 30th day of June, 2004.


9
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11 Attorney General

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HOUSING AUTHORITY OF THE CITY
OF EVERETT


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